

RECORDING REQUESTED BY:

County of San Luis Obispo

AND WHEN RECORDED MAIL TO:

Clerk of the Board of Supervisors  
County of San Luis Obispo  
County Government Center  
San Luis Obispo, CA 93408

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APN No: 074-483-021

**AGREEMENT GRANTING AN OPEN-SPACE EASEMENT  
TO THE COUNTY OF SAN LUIS OBISPO**

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_,  
2016, by and between RUSSELL E. CHARVONIA AND LINDA L. CHARVONIA,  
TRUSTEES OF THE CHARVONIA REVOCABLE LIVING TRUST DATED NOVEMBER  
11, 2004, hereinafter referred to as "Owner," and the COUNTY OF SAN LUIS OBISPO,  
a political subdivision of the State of California, hereinafter referred to as "County."

**WITNESSETH:**

WHEREAS, Owner is the record owner of certain real property (hereinafter  
referred to as the "Property") located in the County of San Luis Obispo, State of  
California, which is more particularly described in Exhibit A attached hereto and  
incorporated by reference herein as though set forth in full; and

WHEREAS, the Property is located within the coastal zone as defined in section  
30103 of Division 20 of the California Public Resources Code, hereinafter referred to as  
the "California Coastal Act of 1976"; and

WHEREAS, Owner has filed an application for approval of Minor Use  
Permit/Coastal Development Permit DRC2012-00085 in order to authorize the



construction of a single family dwelling and workshop/garage on privately-owned land in the unincorporated area of the County of San Luis Obispo, State of California; and

WHEREAS, as agreed to by the Owner and as a requirement of the conditions of approval of Minor Use Permit/Coastal Development Permit DRC2012-00085 (as shown in the attachments to the Notice of Final County Action attached hereto as Exhibit D), and in accordance with section 23.07.170 of the San Luis Obispo County Code, Owner is required to enter into an agreement with the County, on behalf of itself and its successors in interest, in order to preserve in perpetuity an area of habitat on the eastern portion of the site occupied by Morro shoulderband snail in an easement that will preclude any use not consistent with the conservation and management of natural resources; and

WHEREAS, Owner intends that the restrictions contained in this agreement shall apply to that portion of the Property (hereinafter referred to as the "Easement Area") which is more particularly shown and described in Exhibits B and C, attached hereto and incorporated by reference herein as though set forth in full; and

WHEREAS, execution of this agreement by Owner and County, and subsequent performance of its obligations by Owner and his successors in interest, will satisfy the requirement imposed by condition 14 of the conditions of approval of Minor Use Permit/Coastal Development Permit DRC2012-00085 as follows:

14. (BR-6) Prior to issuance of construction permits, preservation in perpetuity of 10,454 square feet (on the eastern portion of the site) of maritime chaparral habitats occupied by Morro shoulderband snail in an easement in a form acceptable to the US Fish and Wildlife Service and County Counsel that will preclude any use not consistent with resource management.

; and



WHEREAS, the Easement Area has important wildlife and habitat conservation values, and both Owner and County desire to preserve and conserve for the public benefit the wildlife and habitat conservation values of said property of the Owner; and

WHEREAS, Owner is willing to grant to County the scenic use of the Easement Area for the purpose of protecting and preserving habitat for the Morro shoulderband snail by restricting the use of said property by Owner through the imposition of the conditions hereinafter expressed; and

WHEREAS, both Owner and County intend that the terms, conditions, and restrictions of the open-space easement granted in this agreement are in compliance with the provisions of the California Coastal Act of 1976; the Local Coastal Program, as set forth in the Land Use Element of the General Plan of the County and in Title 23 of the San Luis Obispo County Code, hereinafter referred to as the "Local Coastal Program" and; Government Code sections 51070 through 51097, inclusive, hereinafter referred to as the "Open-Space Easement Act of 1974;" and

WHEREAS, both Owner and County intend that the open-space easement granted herein is irrevocable and shall constitute an enforceable restriction within the meaning of Article XIII, section 8 of the California Constitution and under the provisions of Revenue and Taxation Code section 422; and

WHEREAS, Owner has supplied County with a current title company preliminary title report, interim binder of title insurance for Owner's purchase of the Property, or lot book guarantee listing all trust deed beneficiaries and mortgagees, if any, under prior recorded deeds of trust and mortgages on the Property.

NOW, THEREFORE, in consideration of the promises and in compliance with the provisions of the California Coastal Act of 1976, the Local Coastal Program, and the



Open-Space Easement Act of 1974, and in further consideration of the mutual promises, covenants, and conditions herein contained and the substantial public benefits to be derived therefrom, the parties hereto agree as follows:

1. Grant of open-space easement. Owner hereby grants to County, for the benefit of the People of the State of California, in perpetuity as specified in paragraph 5 below, an open-space easement in and to the Easement Area described above. For the purpose of accomplishing the intent of the parties hereto, Owner hereby agrees on behalf of itself, its successors and assigns with the County, its successors and assigns, to the following terms, conditions and restrictions.

2. Purposes. The purposes of this Agreement and the Open-Space Easement granted herein are to ensure that the Easement Area will be retained forever in its natural, restored, or enhanced condition as contemplated by the conditions of approval of Minor Use Permit/Coastal Development Permit DRC2012-00085 approved by the County, and to prevent any use of the Easement Area that will impair or interfere with the conservation values of the Easement Area. Owner intends that this Agreement and Open-Space Easement will confine the use of the Easement Area to activities that are consistent with such purposes, including, without limitation, those involving the preservation, restoration and enhancement of native species and their habitats implemented in accordance with the permit referenced above.

3. Restrictions on use of the Easement Area. No development, as that term is defined under the California Coastal Act of 1976, Public Resources Code section 30106, attached as Exhibit E, and the County's Local Coastal Plan, shall be permitted on the Easement Area, except for the following, as set forth Minor Use Permit/Coastal Development Permit DRC2014-00022 referred to above:



Restoration, protection, and enhancement of the Easement Area and consistent with the terms of the Final Restoration and Mitigation Monitoring Plan (which plan is available for review at the County Department of Planning and Building and is incorporated by reference herein as though set forth in full).

4. Development Subject to Applicable Laws. Land uses permitted or reserved to the Owner by this agreement shall be subject to and in compliance with all applicable laws regulating the use of land.

5. No authorization for public trespass. Except as provided in the above-referenced permit or in a subsequently issued coastal development permit, the grant of easement contained herein and its acceptance by the County of San Luis Obispo does not authorize, and is not to be construed as authorizing, the public, or any member thereof, to trespass upon or use all or any portion of the Easement Area, or as granting to the public, or any member thereof, any tangible rights in or to the Easement Area or the right to go upon or use or utilize the Easement Area in any manner whatsoever. It is understood that the purpose of this agreement is solely to restrict the uses to which the Easement Area may be put so that the property may be kept as near as possible in its natural condition for the benefit of the public by preserving habitat and the conservation value of the Easement Area.

6. Duration of easement. The grant of easement to the County contained in this agreement shall be effective when it has been approved and accepted by resolution of the Board of Supervisors (the "Board") in the manner provided by law. Upon approval and acceptance by the Board, the clerk of the Board shall record the resolution and this agreement together in the Office of the County Clerk-Recorder. The easement shall remain in effect in perpetuity unless abandoned or otherwise terminated by the Board of Supervisors in accordance with the provisions of the Open-Space Easement Act of



1974. No easement shall be abandoned or otherwise terminated without first obtaining (1) approval of an amendment to the Minor Use Permit/Coastal Development Permit DRC2014-00022 authorizing such abandonment or termination and, (2) if applicable, any additional required approval under the California Coastal Act of 1976 or the Local Coastal Program.

7. Enforceable restriction. Upon acceptance of the open-space easement granted herein, the Easement Area shall be deemed to be "enforceably restricted" within the meaning of section 422 of the Revenue and Taxation Code and section 8 of Article XIII of the Constitution of the State of California.

8. Binding on successors in interest. The restrictions set forth in this agreement shall be deemed equitable servitudes and covenants running with the land described herein and shall be binding on the parties hereto and their heirs, assigns, and successors in interest. Any conveyance, transfer, or sale made by Owner of the Property or any portion thereof shall be deemed to incorporate by reference, and be subject to, each of the provisions of this agreement.

9. Effect of waiver. County's waiver of the breach of any one term, covenant, or provision of this agreement shall not be a waiver of a subsequent breach of the same term, covenant, or provision of this agreement or of the breach of any other term, covenant, or provision of this agreement.

10. Judicial enforcement. Enforcement shall be by proceeding at law or in equity, either to restrain a violation or an attempted violation or by suit to recover damages against any person or persons violating or attempting to violate any covenant or restriction contained herein.



11. Interpretation, governing law and venue. This agreement has been executed and delivered in, and shall be interpreted, construed, and enforced pursuant to and in accordance with the laws of the State of California, including the California Coastal Act of 1976, the Local Coastal Program and the Open-Space Easement Act of 1974. To the extent that there is a conflict between these provisions, the California Coastal Act of 1976 shall govern, followed by the provisions of the Local Coastal Program, and the language in this agreement. All duties and obligations of the parties created hereunder are performable in the County of San Luis Obispo, and such County shall be the venue for any action or proceeding that may be brought, or arise out of, in connection with or by reason of this agreement.

12. Enforceability. If any term, covenant, condition, or provision of this agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

13. Notices. Unless otherwise provided, all notices herein required shall be in writing, and delivered in person or sent by United States first class mail, postage prepaid. Notices shall be addressed as follows:

To the County:      Director of Planning and Building  
County of San Luis Obispo  
976 Osos Street, Room 300  
San Luis Obispo, California 93408

To the Owner:      Russell and Linda Charvonja  
5536 North Bryn Mawr Street  
Ventura, California 93003

Either party may change the address above by providing notice in writing to the other party. Subsequent notices shall be addressed and transmitted to the new address.



14. Agreement to be recorded. Owner and County intend and consent to the recordation of this agreement in the office of the County Recorder of the County of San Luis Obispo, and such recordation shall serve as constructive notice of the obligations contained herein to be performed by the Owner and the successors in interest to all or any portion of the Easement Area.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

OWNER

RUSSELL E. CHARVONIA AND LINDA L.  
CHARVONIA, TRUSTEES OF THE  
CHARVONIA REVOCABLE LIVING TRUST  
DATED NOVEMBER 11, 2004

By:   
Russell E. Charvonia, Trustee

By:   
Linda L. Charvonia, Trustee

COUNTY OF SAN LUIS OBISPO

By: \_\_\_\_\_  
Chairperson of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board of Supervisors



APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL  
County Counsel

By: Bry J  
Deputy County Counsel

Dated: 1.5.16

LEGAL DESCRIPTION APPROVED AS TO FORM:

DOUGLAS A. RION  
County Surveyor

By: Douglas A. Rion

Dated: 12/24/15

[NOTE: This Open-Space Agreement will be recorded. All signatures to this agreement must be acknowledged by a notary.]  
517plhagr.docx







**EXHIBIT A**

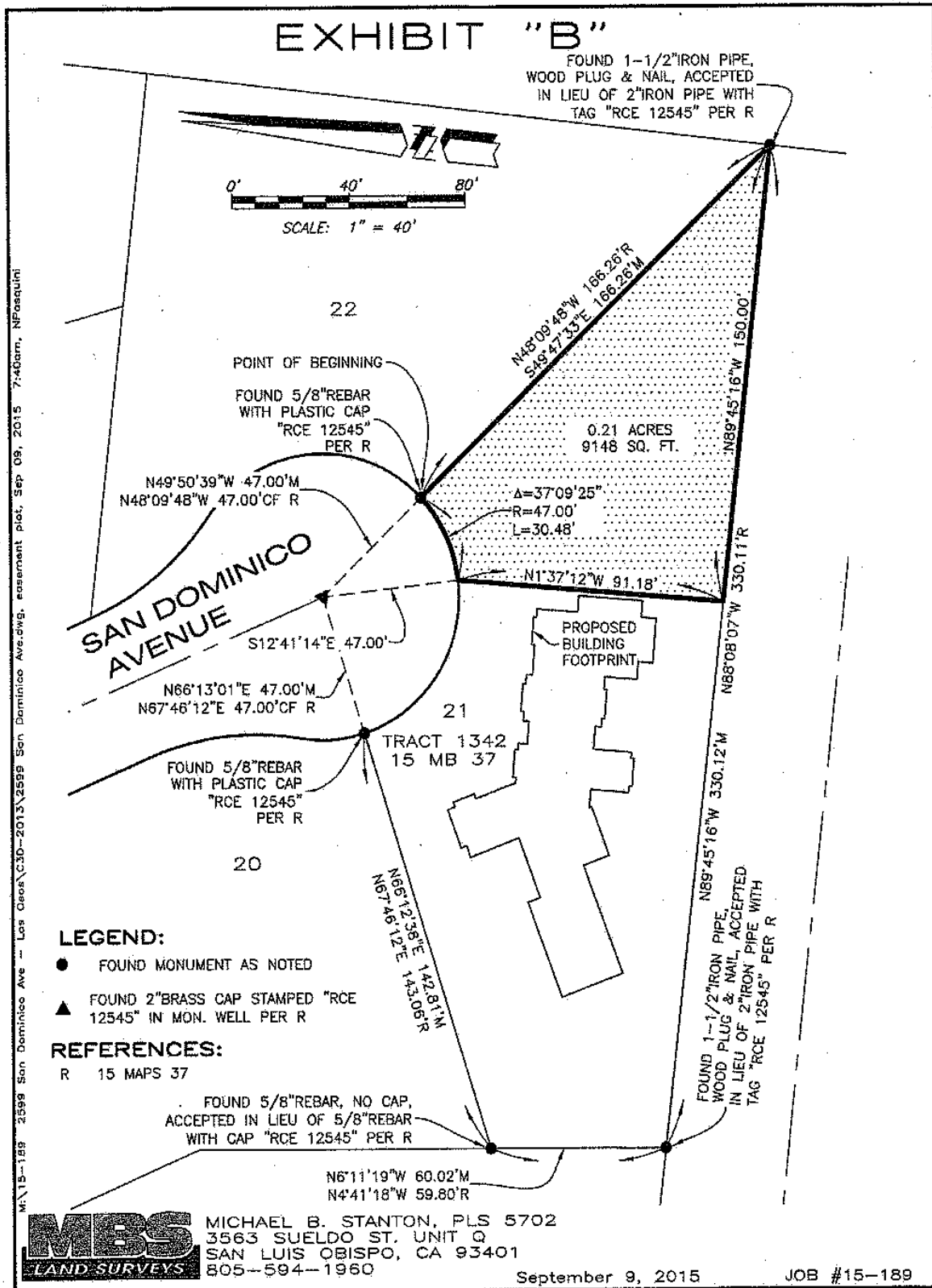
**Legal Description of Property**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA IN COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

LOT 21 OF TRACT NO. 1342, IN THE UNINCORPORATED AREA OF THE COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, ACCORDING TO THE MAP RECORDED SEPTEMBER 7, 1989 IN BOOK 15, PAGE 37 OF MAPS, IN THE OFFICE OF COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES AND MINERALS IN AND UNDER SAID LAND WITHOUT THE RIGHT TO ENTER UPON, POSSESS OR USE ANY PORTION OF THE SURFACE OF SAID LAND ABOVE A DEPTH OF 500 FEET BELOW THE SURFACE FOR THE PURPOSE OF PROSPECTING OR EXPLORING FOR OIL, GAS OR OTHER HYDROCARBON SUBSTANCES AND MINERALS IN AND UNDER SAID LAND AS RESERVED BY EARL G. RODMAN, JR., A MARRIED MAN, ET UX. IN DEED RECORDED MARCH 22, 1974 IN BOOK 1770, PAGE 522 AND 523 OF OFFICIAL RECORDS.







**EXHIBIT C**  
**LEGAL DESCRIPTION OF EASEMENT AREA**

A portion of Lot 21 of Cabrillo Estates, Tract 1342, as shown on map filed in Book 15 of Maps at page 37, records of San Luis Obispo County, California described as follows;

Beginning at a point the right-of-way of San Dominico Avenue, being the common corner of Lot 21 and Lot 22 of Tract 1342; thence

- 1) South 49° 47' 33" East along the northeast line of Lot 21 a distance of 166.26 feet to the southeast corner of Lot 21; thence
- 2) North 89° 45' 16" West along the southerly line of Lot 21 a distance of 150.00 feet; thence leaving said southerly line
- 3) North 1° 37' 12" West a distance of 91.18 feet to the northerly line of Lot 21 and beginning of a non-tangent curve concave northerly having a radius of 47.00 feet, and to which point a radial line bears South 12° 41' 14" East; thence
- 4) Northeasterly along the arc of said curve through a central angle of 37° 09' 25" and an arc distance of 30.48 feet to the Point of Beginning.

The above-described parcel contains 9148 square feet, more or less.

The above-described parcel is graphically shown on Exhibit B attached hereto and made a part hereof.

\* \* \*



Date: 9-9-2015

M:\15-189 2599 San Dominico Ave - Los Osos\Survey\2599 San Dominico ESMT Legal Description.doc  
9/9/2015 7:31 AM



**Exhibit D**

**Notice of Final County Action**





SAN LUIS OBISPO COUNTY  
**DEPARTMENT OF PLANNING AND BUILDING**

Promoting the wise use of land - Helping to build great communities

December 23, 2014

DLA Architecture  
Attn: Donald Avery  
1852 Fixlini Street  
San Luis Obispo, CA 93401

Russ & Linda Charvonja  
5536 N. Bryn Mawr Street  
Ventura, CA 93003

**NOTICE OF FINAL COUNTY ACTION**

HEARING DATE: December 19, 2014

**SUBJECT: RUSS AND LINDA CHARVONIA**  
**County File Number: DRC2012-00085**  
**Minor Use Permit / Coastal Development Permit**  
**DOCUMENT NUMBER: 2014- 082\_PDH**

LOCATED WITHIN COASTAL ZONE: YES

The above-referenced application was approved by the Hearing Officer, based on the approved Findings and Conditions, which are attached for your records. This Notice of Final Action is being mailed to you pursuant to Section 23.02.033(d) of the Land Use Ordinance.

This action is appealable to the Board of Supervisors within 14 days of this action. If there are Coastal grounds for the appeal there will be no fee. If an appeal is filed with non-coastal issues there is a fee of \$850.00. This action is appealable to the California Coastal Commission pursuant to regulations contained in Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043. These regulations contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. The regulations provide the California Coastal Commission 10 working days following the expiration of the County appeal period to appeal the decision. This means that no construction permits can be issued until both the County appeal period and the additional Coastal Commission appeal period have expired without an appeal being filed.

Exhaustion of appeals at the county level is required prior to appealing the matter to the California Coastal Commission. This second appeal must be made directly to the California Coastal Commission Office. Contact the Commission's Santa Cruz Office at (831) 427-4863 for further information on their appeal procedures.

If the use authorized by this Permit approval has not been established or if substantial work on the property towards the establishment of the use is not in progress after a period of twenty-four (24) months from the date of this approval or such other time period as may be designated through conditions of approval of this Permit, this approval shall expire and become void unless an extension of time has been granted pursuant to the provisions of Section 23.02.050 of the Land Use Ordinance.



If the use authorized by this Permit approval, once established, is or has been unused, abandoned, discontinued, or has ceased for a period of six (6) months or conditions have not been complied with, such Permit approval shall become void.

If you have questions regarding your project, please contact , **Kerry Brown, Project Manager**, at (805) 781-5600. If you have any questions regarding these procedures, please contact me at (805) 788-2947.

Sincerely,

NICOLE RETANA, SECRETARY  
PLANNING DEPARTMENT HEARINGS

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**EXHIBIT A - FINDINGS**

*CEQA Exemption*

- A. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on November 13, 2014 for this project. Mitigation measures are proposed to address aesthetics, biological resources, geology and soils, public services/utilities, transportation/ circulation, and water resources and are included as conditions of approval.

*Minor Use Permit*

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the project does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the project is similar to, and will not conflict with, the surrounding lands and uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on San Dominico Avenue, a local road that is constructed to a level able to handle any additional traffic associated with the project.

*Coastal Access*

- G. The project site is located between the first public road and the ocean. The project site is within an urban reserve line (Los Osos) and an existing coastal access point exists within ¼ mile of the project site, therefore, the proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act.

*Water Resources*

- H. The capacities of available water supply and sewage disposal services are sufficient to accommodate both existing development, and allowed development on presently-vacant parcels within the urban services line because the applicant is required to retrofit existing development to result in a savings of 300 gallons of water per day. This will off-set the projects demand for water at a 2:1 ratio.



*Environmentally Sensitive Habitat*

- I. There will be no significant negative impact on the identified sensitive habitat. A Low-effect Habitat Conservation Plan (HCP) was prepared and approved by USFWS. The Low-effect HCP includes minimization and mitigation measures to reduce impacts to the Morro shoulderband snail and its habitat. In addition, all impacted Morro manzanita and Mesa horkelia plants will be replaced at a 5:1 and 2:1 ratio respectively. The project includes dedication of sensitive habitats and restoration and enhancement of damaged habitat.
- J. The proposed use will not significantly disrupt the habitat because implementation of the Habitat Conservation Plan, replacement of Morro manzanita and Mesa horkelia plants, and other mitigation measures will minimize and mitigate impacts to the Morro shoulderband snail and sensitive habitat areas.



## **EXHIBIT B - CONDITIONS OF APPROVAL**

### **Approved Development**

1. This approval authorizes a 5,335 square foot single family residence and a 400 square foot workshop and garage.

### **Conditions required to be completed at the time of application for construction permits**

#### ***Site Development***

2. Plans submitted shall show all development consistent with the approved site plan, floor plan, and architectural elevations.
3. (W-2) The applicant shall submit landscape, irrigation, landscape maintenance plans and specifications to the Environmental Coordinator. The landscape plan shall be prepared as provided in Section 23.04.186 of the San Luis Obispo County Coastal Zone Land Use Ordinance. All plants utilized shall be drought tolerant. Drip-line irrigation shall be used for all landscaped areas (except turf areas) installed for new construction. The drip irrigation system must include an automatic rain shut-off device, soil moisture sensors, and an operating manual to instruct the building occupant on how to use and maintain the water conservation hardware.
4. The applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp or the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

#### ***Fire Safety***

5. **At the time of application for construction permits**, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code. Provide the County Department of Planning and Building with a fire safety plan approved by CalFire.

#### ***Public Works***

6. The applicant shall submit a drainage, sedimentation, and erosion control plan for review and approval by the Department of Public Works.

#### ***Services***

7. The applicant shall provide a letter from Golden State Water Company stating they are willing and able to service (water) the property.
8. The applicant shall submit evidence that a septic system, adequate to serve the proposal, can be installed on the site.

### **Conditions to be completed prior to issuance of a construction permit**

#### ***Biological Resources***

9. (BR-1) **Prior to issuance of construction permits**, the applicant shall provide proof that issuance of an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1531-1544, 87 Stat. 884) as amended (Act), from the U.S. Fish and Wildlife Service has occurred.
10. (BR-2) Pre-construction and construction monitoring surveys for Morro shoulderband snail will be conducted within the impact area and submitted to the County of San Luis Obispo.
11. (BR-3) All identified individuals of Morro shoulderband snail will be relocated, by a USFWS approved biologist to a USFWS-approved (approved by the service prior to the start of any monitoring surveys) offsite location, out of harm's way.



12. (BR-4) **Prior to site disturbance**, a continuous silt fence will be installed to establish the limits of the construction area. The fence will delineate the work zone and establish the limits of the construction area. The fence will remain in place throughout the duration of the project.
13. (BR-5) **Prior to site disturbance**, the applicant shall demonstrate that the development and presentation of a contractor and employee training program for Morro shoulderband snail has been completed.
14. (BR-6) **Prior to issuance of construction permits**, preservation in perpetuity of 10,454 square feet (on the eastern portion of the site) of maritime chaparral habitats occupied by Morro shoulderband snail in an easement in a form acceptable to the US Fish and Wildlife Service and County Counsel that will preclude any use not consistent with resource management.
15. (BR-11) **Prior to issuance of building permits**, highly visible orange construction fencing shall be installed (by a qualified botanist) around each sensitive plant at a buffer/extent width of 30 feet, where feasible, to protect the plants from harm during construction activities.
16. (BR-12) **Prior to issuance of building permits**, individual special status plant species that cannot be avoided by the proposed project shall be salvaged prior to the onset of construction activities, by a qualified botanist. Salvage plant species shall be relocated and re-installed within the existing and non-impacted area of non-native grassland that is located in the eastern portion of the site.
17. (BR-14) **Prior to issuance of building permits**, a restoration and mitigation monitoring plan shall be prepared by a qualified biologist or botanist according to the County of San Luis Obispo Guidelines for Revegetation/Restoration Plans, and shall result in habitat enhancement and the long term viability of the species. The restoration plan shall at a minimum include the following information: baseline information about the impact and restoration, specific goals and objectives, justification for selection of the restoration site, vegetation/restoration work plan, site protection and maintenance, performance standards used to evaluate the status of the plan in attaining the desired objectives, a monitoring plan to be conducted for a minimum of 5 years, adaptive management plan to implement if performance standards are not met, budget for all components of the plan, copies of data sheets to be used, and information on the monitoring reports. Monitoring reports shall be prepared by a qualified biologist or botanist and be submitted annually to the Environmental Division of the County of San Luis Obispo for review and approval.

#### **Water Resources**

18. (W-1) **Prior issuance of building permits**, the applicant shall submit to the Department of Planning and Building for review and approval evidence to the satisfaction of the Planning Director that the applicant has retrofitted enough existing homes and businesses to save twice the amount of water the new residence will use (consistent with Title 19).

#### **Aesthetics**

19. (VS-1) **Prior to issuance of construction permits**, construction plans shall note that night lighting of the residence and access to the development shall be limited to minimal, downward-facing fixtures, sufficient only to provide safe access, and screened to not be seen off-site.

#### **Fees**

20. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.

#### **Architectural Control Committee**

21. **Prior to issuance of a construction permit**, the applicant shall provide evidence to the Planning Department certifying that the Architectural Control Committee for Cabrillo Estates has reviewed and approved plans and specifications (unless the Architectural Control Committee does not exist).
22. (BR-10) **Prior to site disturbance and vegetation clearing**, the applicant shall payment of an in-lieu fee in the amount of \$8,352 to the US Fish and Wildlife Service.



**Conditions to be completed during project construction**

***Building Height***

23. The maximum height of the project is 15 feet (as measured from the highest point of the lot).
- a. **Prior to any site disturbance**, a licensed surveyor or civil engineer shall establish the highest point of the lot and set a reference point (benchmark).
  - b. **Prior to approval of the foundation inspection**, the benchmark shall be inspected by a building inspector prior to pouring footings or retaining walls, as an added precaution.
  - c. **Prior to approval of the roof nailing inspection**, the applicant shall provide the building inspector with documentation that gives the height reference, the allowable height and the actual height of the structure. This certification shall be prepared by a licensed surveyor or civil engineer.

***Biological Resources***

24. (BR-9) A USFWS-approved biological monitor shall be present during the installation of construction fencing, initial vegetation clearing and grubbing, and earthwork in the form of initial grading and excavation. Any live Morro shoulderband snails found during these monitoring events will be captured and relocated to the conservation areas by the authorized biological monitor. This monitor shall have the authority to order any reasonable measure necessary to avoid the take of Morro shoulderband snail and to immediately stop any work or activity that is not in compliance with the conditions set forth in the ITP. The USFWS office in Ventura and the County of San Luis Obispo shall be notified of any "stop work" order and the order shall remain in effect until the issue has been resolved. No construction work will be initiated until the biological monitor determines that the work area is clear of Morro shoulderband snails.

**Conditions to be completed prior to occupancy or final building inspection /establishment of the use**

***Fire Safety***

25. The applicant shall obtain final inspection and approval from CalFire of all required fire/life safety measures.

***Driveway***

26. **Prior to issuance of occupancy permit**, a concrete driveway measuring at least 9 feet in width and at least 3-1/2 inches thick extending from a concrete approach apron, shall be built in accordance with County Standard Improvement Specifications and Drawings, to the garage door.

***Development Review Inspection***

27. The applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.

***Water Resources***

28. (W-3)**Prior to final building inspection**, landscaping shall be installed or bonded for to ensure the implementation of the landscaping consistent with the approved landscaping plan.
29. (W-4)**Prior to final building inspection**, one of the following shall be installed as a part of the water supply system: 1) A "Point-of-use" supplemental water heater system in all bathrooms and kitchen, or 2) a circulating hot water system.

***Aesthetics***

30. (VS-1) **Prior to final inspection or occupancy**, whichever occurs first, all exterior lighting shall comply with the lighting condition above. This condition shall be maintained for the life of the project.



**Biological Resources**

31. (BR-7) **Prior to final building inspection**, the applicant shall complete the enhancement of 3,049 square feet of disturbed central maritime chaparral within the conservation easement to increase its value and function for Morro shoulderband snail.
32. (BR-13) **Prior final building inspection**, the applicant shall replace at a 4:1 ratio all oak trees removed as a result of the development of the project and at a 5:1 ratio all Morro Manzanita plants and 2:1 ratio for all Mesa Horkelia removed. No more than 2 pygmy coast live oak tree having a five inch diameter or larger at four feet from the ground, 18 Morro Manzanita plants, and 10 individual mesa horkelia plants shall be removed as a result of the development of the project (as shown on the attached exhibit). Replanting shall be completed as soon as it is feasible (e.g. irrigation water is available, grading done in replant area). Replant areas shall be either in native topsoil or areas where native topsoil has been reapplied. If the latter, topsoil shall be carefully removed and stockpiled for spreading over graded areas to be replanted (set aside enough for 6-12" layer).

**On-going conditions of approval (valid for the life of the project)**

33. (BR-8) Annual reports and a final report will be submitted to the USFWS by December 31 of each year for the duration of the 10-year ITP and will include: (1) a brief summary or list of project activities accomplished during the reporting year (e.g., this includes development/construction activities, and other covered activities); (2) project impacts (e.g., number of acres graded, number of buildings constructed, etc.); (3) a description of any take that occurred for the covered species (includes cause of take, form of take, take amount, location of take and time of day, and deposition of dead or injured individuals); (4) a brief description of conservation strategy implemented; (5) results of monitoring (compliance, effects and effectiveness monitoring) and survey information (if applicable); (6) a description of circumstances that made adaptive management necessary and how it was implemented; (7) a description of any changed or unforeseen circumstances that occurred and how they were addressed; (8) all funding expenditures, balance, and accrual; and (9) a description of any minor or major amendments. Once construction activities are completed, these reports will be brief in nature and are not anticipated to add significant cost to the overall plan implementation costs.
34. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
35. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.
36. The applicant is subject to the terms and conditions of their Federal Incidental Take Permit TE-36029B-0.



**EXHIBIT E**

**Public Resources Code § 30106**

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.